

## **REMARKS / ARGUMENTS**

### **I. General Remarks**

Please consider the application in view of the following remarks. Applicants thank the Examiner for his careful consideration of this application.

### **II. Disposition of the Claims**

Claims 1-83 are pending in this application. Claims 84-142 have been cancelled herein. Claims 1, 18, 23, 25, 28, 30, 33, 42, 56, 59, 62, 64, 78, and 82 are subject to election requirements.

In this Response, claims 2, 3, 7, 8, 10, 12, 13, 16, 21, 26, 32, 34, 43, 44, 49, 53, 61, 65, 66, 71, and 75 have been amended. These amendments are supported by the application as filed. Applicants also reserve the right to pursue the original claims as filed.

### **III. Remarks Regarding Restriction Requirement**

In the present Office Action, the Examiner has issued a restriction requirement. With respect to this restriction requirement, the Office Action states:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-83, drawn to a process of fracturing a portion of a subterranean formation, classified in class 166, subclass 271+.
- II. Claims 84-142, drawn to a process of preparing a well bore treatment fluid, classified in class 507, subclass 200+.

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are a method of using and a method of making a product, which are by definition unrelated.

Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

(Office Action at page 2.)

Applicants hereby provisionally elect claims 1-83, and claims 84-142 have been cancelled herein as being drawn to a non-elected invention. Applicants reserve their right to pursue these claims in a divisional or other continuing application.

#### **IV. Remarks Regarding Election of Species**

In the present Office Action, the Examiner has required eight species elections under 35 U.S.C. § 121.

##### **A. Species of Liquid Hydrocarbons**

With respect to the first election requirement, the Office Action states that:

Claims 1, 42, 64, 84, 101, 104, 106, 109, and 112 are generic to the following disclosed patentably distinct species: the liquid hydrocarbon.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

(Office Action at page 3.) Accordingly, Applicants hereby elect petroleum distillates as the liquid hydrocarbon. In accordance with the election requirement, Applicants identify claims 1-83 as falling within these elected species. Applicants reserve their right to pursue additional species should a generic be allowed, or in a divisional or other continuing application.

##### **B. Species of Organophosphonic Acid Ester**

With respect to the second election requirement, the Office Action states that:

Claims 1, 42, 64, 84, 101, 104, 106, 109, and 112 are generic to the following disclosed patentably distinct species: the organophosphonic acid ester.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

(Office Action at page 3.) Accordingly, Applicants hereby elect decylphosphonic acid monomethyl ester as the organophosphonic acid ester. In accordance with the election requirement, Applicants identify claims 1-83 as falling within these elected species. Applicants reserve their right to pursue additional species should a generic be allowed, or in a divisional or other continuing application.

**C. Species of Organophosphonic Acid**

With respect to the third election requirement, the Office Action states that:

Claims 1, 42, 64, 84, 101, 104, 106, 109, and 112 are generic to the following disclosed patentably distinct species: the organophosphonic acid.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

(Office Action at page 4.) Accordingly, Applicants hereby elect decylphosphonic acid as the organophosphonic acid. In accordance with the election requirement, Applicants identify claims 1-83 as falling within these elected species. Applicants reserve their right to pursue additional species should a generic be allowed, or in a divisional or other continuing application.

**D. Species of Surfactant**

With respect to the fourth election requirement, the Office Action states that:

Claims 1, 42, 64, 84, 101, 104, 106, 109 and 112 are generic to the following disclosed patentably distinct species: the surfactant.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

(Office Action at page 4-5.) Accordingly, Applicants hereby elect ethoxylated fatty amine as the surfactant. In accordance with the election requirement, Applicants identify claims 1-83 as falling within these elected species. Applicants reserve their right to pursue additional species should a generic be allowed, or in a divisional or other continuing application.

**E. Species of Enhancer**

With respect to the fifth election requirement, the Office Action states that:

Claims 18, 56, 78, 99 and 129 are generic to the following disclosed patentably distinct species: the enhancer.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

(Office Action at page 5.) Accordingly, Applicants hereby elect triethanolamine as the enhancer. In accordance with the election requirement, Applicants identify claims 1-83 as falling within these elected species. Applicants reserve their right to pursue additional species should a generic be allowed, or in a divisional or other continuing application.

**F. Species of Proppant or Gravel**

With respect to the sixth election requirement, the Office Action states that:

Claims 23, 25, 59 and 64 are generic to the following disclosed patentably distinct species: the proppant and/or gravel.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

(Office Action at page 6.) Accordingly, Applicants hereby elect sand as the proppant or gravel. In accordance with the election requirement, Applicants identify claims 1-83 as falling within these elected species. Applicants reserve their right to pursue additional species should a generic be allowed, or in a divisional or other continuing application.

**G. Species of Breaker**

With respect to the seventh election requirement, the Office Action states that:

Claims 28, 30, 62, 82 and 135 are generic to the following disclosed patentably distinct species: the breaker.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

(Office Action at page 6-7.) Accordingly, Applicants hereby elect hard-burned magnesium oxide as the breaker. In accordance with the election requirement, Applicants identify claims 1-83 as falling within these elected species. Applicants reserve their right to pursue additional species should a generic be allowed, or in a divisional or other continuing application.

#### **H. Species of Reducing Agent**

With respect to the eighth election requirement, the Office Action states that:

Claims 33 and 140 are generic to the following disclosed patentably distinct species: the reducing agent.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

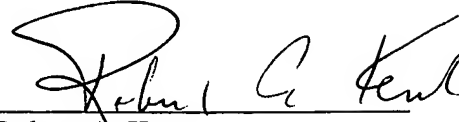
(Office Action at page 7.) Accordingly, Applicants hereby elect thioglycolic acid as the reducing agent. In accordance with the election requirement, Applicants identify claims 1-83 as falling within these elected species. Applicants reserve their right to pursue additional species should a generic be allowed, or in a divisional or other continuing application.

#### **SUMMARY**

In light of the above remarks, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections. Applicants further submit that the application is now in condition for allowance, and earnestly solicit timely notice of the same. Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record by telephone, facsimile, or electronic mail.

Applicants believe that no fees are due with this response; however, the Commission is authorized to debit any additional fees to Halliburton Energy Services, Inc.'s Deposition Account No. 08-0300 for any underpayment of fees that may be due in association with this filing.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert A. Kent", written over a horizontal line.

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